IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

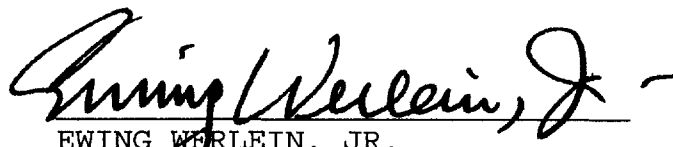|		
UNITED STATES OF AMERICA,	§	
	§	
Plaintiff-Respondent,	§	
	§	
V.	§	CRIMINAL ACTION NO. H-10-0369-2
	§	CIVIL ACTION NO. H-13-0399
IGNACIO CERVANTEZ DIAZ,	§	
	§	
Defendant-Petitioner.	§	

ORDER ADOPTING RECOMMENDATION OF THE MAGISTRATE JUDGE

Pending is the United States' Motion to Dismiss (Document No. 169) and Defendant/Petitioner Ignacio Cervantez Diaz's "Petition Seeking Relief Pursuant [to] 28 [USC] § 2255 Pursuant to the Rehabilitation Act" (Document No. 163). The Court has received from the Magistrate Judge a Memorandum and Recommendation recommending that the Government's Motion to Dismiss be GRANTED and that Diaz's "Petition Seeking Relief Pursuant [to] 28 [USC] § 2255 Pursuant to the Rehabilitation Act" be construed as a request for relief under 28 U.S.C. § 2241 and dismissed without prejudice for lack of jurisdiction. No objections have been filed to the Memorandum and Recommendation. The Court, after having made a *de novo* determination of the Government's Motion to Dismiss, Diaz's Petition, and the Magistrate Judge's Memorandum and Recommendation, is of the opinion that the findings and recommendations of the Magistrate Judge are correct and should be and hereby are accepted by the Court in their entirety. Therefore,

It is ORDERED and ADJUDGED for the reasons set forth in the Memorandum and Recommendation of the United States Magistrate Judge signed and filed on July 24, 2013, which is adopted in its entirety as the opinion of the Court, that the Government's Motion to Dismiss (Document No. 169) is GRANTED and Movant Ignacio Cervantez Diaz's "Petition Seeking Relief Pursuant [to] 28 [USC] § 2255 Pursuant to the Rehabilitation Act" (Document No. 163) is construed as a request for relief under 28 U.S.C. § 2241, and is DISMISSED WITHOUT PREJUDICE for lack of jurisdiction.

The Clerk will enter this Order and send copies to all parties of record.

Signed at Houston, Texas this 31ST day of August, 2013.

EWING WERLEIN, JR.
UNITED STATES DISTRICT JUDGE

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